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114TH CONGRESS
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S. 973

To amend the Internal Revenue Code of 1986 to allow a credit against income tax for equity investments by angel investors.

IN THE SENATE OF THE UNITED STATES

APRIL 16, 2015

Mr. MURPHY introduced the following bill; which was read twice and referred to the Committee on Finance

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A BILL

To amend the Internal Revenue Code of 1986 to allow a credit against income tax for equity investments by angel investors.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Angel Tax Credit Act''.

SEC. 2. ANGEL INVESTMENT TAX CREDIT.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

"SEC. 30E. ANGEL INVESTMENT TAX CREDIT.

"(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 25 percent of the qualified equity investments made by a qualified investor during the taxable year.

"(b) LIMITATION.—The amount of the credit allowed under subsection (a) for any taxpayer for any taxable year shall not exceed $250,000.

"(c) QUALIFIED EQUITY INVESTMENT.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified equity investment' means any equity investment in a qualifying business entity if—

"(A) the aggregate amount of such investments made by the taxpayer during the taxable year is $25,000 or more,

"(B) such investment is acquired by the taxpayer at its original issue (directly or through an underwriter) solely in exchange for cash, and

"(C) such investment is designated for purposes of this section by the qualifying business entity.

"(2) EQUITY INVESTMENT.—The term 'equity investment' means—

"(A) any form of equity, including a general or limited partnership interest, common stock, preferred stock (other than nonqualified preferred stock as defined in section 351(g)(2)), with or without voting rights, without regard to seniority position and whether or not convertible into common stock or any form of subordinate or convertible debt, or both, with warrants or other means of equity conversion, and

"(B) any capital interest in an entity which is a partnership.

"(3) REDEMPTIONS.—A rule similar to the rule of section 1202(c)(3) shall apply for purposes of this subsection.

"(d) QUALIFYING BUSINESS ENTITY.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualifying business entity' means any domestic corporation or partnership if such corporation or partnership—

"(A) has its headquarters in the United States,

"(B) has gross revenues for the taxable year preceding the date of the qualified equity investment of less than $1,000,000,

"(C) employs less than 25 full-time equivalent employees as of the date of such investment,

"(D) has been in existence for less than 7 years as of the date of the qualified equity investment,

"(E) has more than 50 percent of the employees performing substantially all of their services in the United States as of the date of such investment,

"(F) is engaged in a high technology trade or business related to—

"(i) advanced materials, nanotechnology, or precision manufacturing,

"(ii) aerospace, aeronautics, or defense,

"(iii) biotechnology or pharmaceuticals,

"(iv) electronics, semiconductors, software, or computer technology,

"(v) energy, environment, or clean technologies,

"(vi) forest products or agriculture,

"(vii) information technology, communication technology, digital media, or photonics,

"(viii) life sciences or medical sciences,

"(ix) marine technology or aquaculture,

"(x) transportation, or

"(xi) any other high technology trade or business, as determined by the Secretary of the Treasury, and

"(G) has equity investments designated for purposes of this paragraph.

"(2) DESIGNATION OF EQUITY INVESTMENTS.—For purposes of paragraph (1)(G), an equity investment shall not be treated as designated if such designation would result in the aggregate amount which may be taken into account under this section with respect to equity investments in such corporation or partnership exceeds $2,000,000, taking into account the total amount of all qualified equity investments made by all taxpayers for the taxable year and all preceding taxable years.

"(e) QUALIFIED INVESTOR.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified investor' means an accredited investor, as defined by the Securities and Exchange Commission.

"(2) EXCLUSION.—The term 'qualified investor' does not include—

"(A) a person controlling at least 50 percent of the qualifying business entity,

"(B) any venture capital fund (within the meaning of section 203(l) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–3(l))), or

"(C) any bank, savings association, loan association, trust company, insurance company, or similar entity whose business activities include making similar investments to investments of a venture capital fund (as so defined).

"(f) NATIONAL LIMITATION ON AMOUNT OF INVESTMENTS DESIGNATED.—

"(1) IN GENERAL.—There is an angel investment tax credit limitation of $500,000,000 for each of calendar years 2015 through 2019.

"(2) ALLOCATION OF LIMITATION.—The limitation under paragraph (1) shall be allocated by the Secretary among qualified small business entities selected by the Secretary.

"(3) CARRYOVER OF UNUSED LIMITATION.—If the angel investment tax credit limitation for any calendar year exceeds the aggregate amount allocated under paragraph (2) for such year, such limitation for the succeeding calendar year shall be increased by the amount of such excess. No amount may be carried under the preceding sentence to any calendar year after 2024.

"(g) APPLICATION WITH OTHER CREDITS.—

"(1) BUSINESS CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—Except as provided in paragraph (2), the credit which would be allowed under subsection (a) for any taxable year (determined without regard to this subsection) shall be treated as a credit listed in section 38(b) for such taxable year (and not allowed under subsection (a)).

"(2) PERSONAL CREDIT.—

"(A) IN GENERAL.—In the case of an individual who elects the application of this paragraph, for purposes of this title, the credit allowed under subsection (a) for any taxable year (determined after application of paragraph (1)) shall be treated as a credit allowable under subpart A for such taxable year.

"(B) CARRYFORWARD OF UNUSED CREDIT.—If the credit allowable under subsection (a) by reason of subparagraph (A) exceeds the limitation imposed by section 26(a) for such taxable year, reduced by the sum of the credits allowable under subpart A (other than this section) for such taxable year, such excess shall be carried to each of the succeeding 20 taxable years to the extent that such unused credit may not be taken into account under subsection (a) by reason of subparagraph (A) for a prior taxable year because of such limitation.

"(h) SPECIAL RULES.—

"(1) RELATED PARTIES.—For purposes of this section—

"(A) IN GENERAL.—All related persons shall be treated as 1 person.

"(B) RELATED PERSONS.—A person shall be treated as related to another person if—

"(i) the relationship between such persons would result in the disallowance of losses under section 267 or 707(b), or

"(ii) for purposes of subsection (e), the person is an individual who is the

spouse of a lineal descendant of an individual described in subsection (e)(2)(A).

"(2) BASIS.—For purposes of this subtitle, the basis of any investment with respect to which a credit is allowable under this section shall be reduced by the amount of such credit so allowed. This subsection shall not apply for purposes of sections 1202, 1397B, and 1400B.

"(3) RECAPTURE.—The Secretary shall, by regulations, provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any qualified equity investment which is held by the taxpayer less than 3 years, except that no benefit shall be recaptured in the case of—

"(A) transfer of such investment by reason of the death of the taxpayer,

"(B) transfer between spouses,

"(C) transfer incident to the divorce (as defined in section 1041) of such taxpayer, or

"(D) a transaction to which section 381(a) applies (relating to certain acquisitions of the assets of one corporation by another corporation).

"(i) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out this section, including regulations—

"(1) which prevent the abuse of the purposes of this section,

"(2) which impose appropriate reporting requirements, and

"(3) which apply the provisions of this section to newly formed entities.".

(b) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38 of the Internal Revenue Code of 1986 is amended—

(1) in paragraph (35), by striking "plus";

(2) in paragraph (36), by striking the period at the end and inserting ", plus"; and

(3) by adding at the end the following new paragraph:

"(37) the portion of the angel investment tax credit to which section 30E(g)(1) applies.".

(c) CONFORMING AMENDMENTS.—

(1) Section 1016(a) of the Internal Revenue Code of 1986 is amended by striking "and" at the end of paragraph (36), by striking the period at the end of paragraph (37) and inserting ", and", and by

inserting after paragraph (37) the following new paragraph:

"(38) to the extent provided in section 30E(h)(2).".

(2) The table of sections for subpart B of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

"Sec. 30E. Angel investment tax credit.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to investments made after December 31, 2014, in taxable years ending after such date.

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